



Security Council

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LETTER DATED 27 JUNE 1996 FROM THE PRESIDENT OF THE SECURITY
COUNCIL ADDRESSED TO THE PRESIDENTS OF THE INTERNATIONAL
CRIMINAL TRIBUNALS FOR THE FORMER YUGOSLAVIA AND RWANDA

I wish to refer to your joint letter of 13 February 1996 (S/1996/475) addressed to the President of the Security Council, by which you conveyed on behalf of the Tribunals' judges proposals to amend the Statutes of the Yugoslav Tribunal and the Rwanda Tribunal. The members of the Council appreciate the judges' dedication and concern for the administration of justice which led them to bring these matters to their attention.

The members of the Security Council have very carefully examined your proposals. During their deliberations all the members of the Council expressed their firm support for the Tribunals and their concern to facilitate their efficient functioning. While agreeing on the need for an effective solution to the problem of availability of judges which you raised, the members of the Council have underscored the distinction between the two Tribunals which are distinct entities, and the separation of the Appeals Chamber from the Trial Chambers. Having reviewed the matter the members of the Council do not believe that the situation, at this time, requires the extraordinary step of amending the Tribunals' Statutes.

Members of the Council recognize, however, that increased judicial activity in the coming months in both Tribunals may raise problems with regard to the availability of judges. They have, therefore, examined a number of alternative proposals and consider that adequate solutions to the problem of availability of judges may be achieved under the Rules of Procedure and Evidence of both Tribunals, for example under Rule 15 (E) thereof. They have also noted in this connection that cautious use of the provisions of Rule 61 may provide an additional solution. In addition, the Tribunals may wish to consider whether any modifications of their Rules of Procedure and Evidence could assist with the matter of availability of judges.

Solutions such as these should in the view of members of the Council be adequate in cases of temporary illness or incapacity or where the workload of the Tribunal does not increase exponentially. The members recognize, however, that they may not necessarily be adequate in cases where a judge is ill or



incapacitated for a considerable period of time and where the workload is such that a serious disruption of proceedings may ensue. In such circumstances it may be necessary for the Council to revert to this matter and to consider other mechanisms for appointment of judges perhaps on an ad hoc basis.

I would be grateful if you would convey the contents of this letter to the members of the respective Tribunals.

(Signed) Nabil A. ELARABY
President of the Security Council
